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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/525,002    03/14/00    PRZYTULLA

D    2511-091

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QM22/0405

EXAMINER

CASTELLANO, S

ART UNIT

PAPER NUMBER

3727

DATE MAILED:

04/05/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/525,002

Applicant(s)

Przytulla

Examiner

Castellano

Group Art Unit

3727

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 3/19/01
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 1, 2 is/are allowed.
- ☒ Claim(s) 3-17 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Other 2 colored copies

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1. It is suggested that the word "adjacent" on line 12 of claim 5 be deleted to provide a less awkward grammatical sentence structure. It is suggested that the word "adjacent" on line 12 of claim 10 be deleted to provide a less awkward grammatical sentence structure.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 3-14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fehres et al. (Fehres).

Please see the colored copy of the chime structure of Fehres wherein the color orange delineates a first portion or a substantially radial first chime wall, the color blue delineates a second portion or a substantially cylindrical second chime wall and the color yellow delineates an exterior circumferential rib. Fehres discloses an open top barrel having a barrel body with an upper end defined by an upper edge extending circumferentially around said barrel and including a first portion (as denoted in orange) extending radially away from said body and having a downwardly facing surface, and a second portion (as denoted in blue) extending upwardly from the first portion at a location radially outwardly of said first portion. An exterior rib (as denoted in yellow), the rib defining part of the barrel edge and having both an upper surface and a lower surface projecting radially outwardly of the first and second portions with the lower surface of the rib disposed along the downwardly facing surface and defining a continuing part of the downwardly facing surface. The rib terminates in a free end surface denoted by the outermost rounded point which connects the upper and lower surfaces. A lid having a central section and an outer peripheral edge which in cross section defines a downwardly facing U-shaped part

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overlying said upper barrel edge, a U-shaped tension-ring closure member which in closed position of the lid engages with an upper leg of the tension-ring closure member over an upwardly facing surface of the outer lid edge and engages with a lower leg of the tension-ring closure member under the downwardly facing surface that extends below said uppermost surface of the upper barrel.

Claims 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammes et al. ('934) (Hammes).

Please see the colored copy of the chime structure of Hammes wherein the color orange delineates a first portion or a substantially radial first chime wall, the color blue delineates a second portion or a substantially cylindrical second chime wall and the color yellow delineates an exterior circumferential rib. Hammes discloses an open top plastic drum comprising a drum body, the drum body having a closed bottom, a substantially axially symmetrical sidewall and a chime portion. The chime portion receives a removable cover and extends from the sidewall to define an open top. The chime portion including a substantially radial first chime wall (as denoted in orange) projecting outwardly from the sidewall and having a bottom surface, a substantially cylindrical second chime wall (as denoted in blue) directed upwardly from an outer portion contiguous with the first chime wall, and an exterior rib (as denoted in yellow) extending from the first chime wall below the second chime wall. A cover is provided which has a peripheral chime receiving member that includes a circumferential flange having an inner diameter larger than the second chime wall but less than the circumferential flange. A retaining ring is provide which has first and second legs fixedly connected by an intermediate band, wherein the first leg engages an outer surface of the peripheral chime receiving member directly

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above the second chime wall, and wherein the second leg engages the bottom portions of the rib and the first chime wall below the second chime wall such that the length of engagement of the lower leg of the ring with the chime portion is increased and the ring has increased resistance to deformation and sliding from the chime if the drum is dropped. The circumferential rib has a bottom surface that is substantially coplanar with the first wall and substantially perpendicular to the longitudinal axis of the container circumscribing said lower portion of the second chime wall, wherein the rib increases the moment of inertia of the chime portion and thus provides greater rigidity to the chime portion.

4. Claims 1 and 2 are allowed.

Applicant's arguments with respect to claims 4-17 have been considered but are moot in view of the new ground(s) of rejection.


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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5. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is (703)-308-1035.

  
Stephen Castellano  
Primary Examiner  
Art Unit 3727

April 5, 2001